

1 TRACY L. WILKISON
Acting United States Attorney
2 SCOTT M. GARRINGER
Assistant United States Attorney
3 Chief, Criminal Division
SCOTT PAETTY (Cal. Bar No. 274719)
4 CATHERINE AHN (Cal. Bar No. 248286)
BRIAN FAERSTEIN (Cal. Bar No. 274850)
5 Assistant United States Attorneys
Major Frauds/Environmental and Community Safety Crimes Sections
6 1100/1300 United States Courthouse
312 North Spring Street
7 Los Angeles, California 90012
Telephone: (213) 894-6527/2424/3819
8 Facsimile: (213) 894-6269/0141
E-mail: Scott.Paetty@usdoj.gov
9 Catherine.S.Ahn@usdoj.gov
Brian.Faerstein@usdoj.gov

10 JOSEPH S. BEEMSTERBOER
Acting Chief, Fraud Section
11 Criminal Division, U.S. Department of Justice
CHRISTOPHER FENTON
12 Trial Attorney, Fraud Section
Criminal Division, U.S. Department of Justice
13 1400 New York Avenue NW, 3rd Floor
Washington, DC 20530
14 Telephone: (202) 320-0539
Facsimile: (202) 514-0152
15 E-mail: Christopher.Fenton@usdoj.gov

16 Attorneys for Plaintiff
17 UNITED STATES OF AMERICA

18 UNITED STATES DISTRICT COURT

19 FOR THE CENTRAL DISTRICT OF CALIFORNIA

20 UNITED STATES OF AMERICA,

21 Plaintiff,

22 v.

23 ARTUR AYVAZIAN,

24 Defendant.

No. 2:20-cr-579(A)-SVW-4

GOVERNMENT'S OBJECTION TO THE
PRESENTENCE INVESTIGATION REPORT
FOR ARTUR AYVAZIAN

Sentencing: November 15, 2021

Time: 11:00 a.m.

Location: Courtroom of the
Hon. Stephen V. Wilson

1 Plaintiff United States of America, by and through its counsel
2 of record, the Acting United States Attorney for the Central District
3 of California, Assistant United States Attorneys Catherine Ahn, Scott
4 Paetty, and Brian Faerstein, and Department of Justice Trial Attorney
5 Christopher Fenton, hereby files its initial response, pursuant to
6 Federal Rule of Criminal Procedure 32(f), to the Presentence
7 Investigation Report ("PSR"), prepared by the United States Probation
8 and Pretrial Services Office ("Probation"), for defendant ARTUR
9 AYVAYZAN ("defendant") (ECF 994).

10 The government concurs with the United States Probation Office's
11 ("USPO's") calculation of defendant's criminal history category as I,
12 but respectfully submits that the PSR should be amended to include
13 the following enhancement necessary to reflect the scope of
14 defendant's crimes and conduct for which he was convicted: a two-
15 level victim-related adjustment based on the fact that many of the
16 victims were vulnerable and could not protect against defendant and
17 his co-conspirators' use of their names, in accordance with U.S.S.G.
18 § 3A1.1(b)(1). This would result in a total offense level of 37,
19 which yields an advisory Guidelines sentencing range of 210 to 262
20 months, plus the mandatory consecutive 24 month sentence required for
21 his conviction for count 24 (violating 18 U.S.C. § 1028(A)(a)(1)).

22 **The PSR Should Apply a Two-Level Victim-related Adjustment**

23 The government recommends that defendant's offense level be
24 increased by two because he "knew or should have known that a victim
25 of the offense was a vulnerable victim." U.S.S.G. § 3A1.1(b)(1). As
26 discussed in detail in the Government's Response to the Presentence
27 Investigation Report for Tamara Dadyan (ECF 1001 at 3-11), the
28 evidence found at defendant's Weddington residence and evidence found

1 on his phone, as well as his wife and co-defendant Tamara Dadyan's
2 phone, show that he and his co-conspirators deliberately targeted
3 individuals who were vulnerable to their information being exploited
4 for use in the fraud. This included foreign exchange students who
5 had left the United States years before COVID-19 and were therefore
6 unable to protect their identities from exploitation, as well as the
7 deceased.

8 This enhancement applies to individuals that are "unusually
9 vulnerable due to age, physical or mental condition, or who is
10 otherwise particularly susceptible to the criminal conduct."
11 U.S.S.G. § 3A1.1(b) (1) App. Note 2. The purpose of the adjustment is
12 to punish and deter criminals like defendant from victimizing those
13 who cannot protect themselves:

14 The "vulnerable victim" sentencing enhancement is intended
15 to reflect the fact that some potential crime victims have
16 a lower than average ability to protect themselves from the
17 criminal. Because criminals incur reduced risks and costs
18 in victimizing such people, a higher than average
19 punishment is necessary to deter the crimes against them. .
20 . . Defrauders who direct their activities not against
21 banks, insurance companies, or large investors, but instead
22 against people [with] . . . mental or educational
deficiencies, . . . do not need to take as many precautions
against the discovery of their scheme by the intended
victims and in any event are less likely to be prosecuted,
because the victims are less likely to know that they have
been defrauded or if they know to have the know-how and
initiative required to press a criminal complaint or bring
a civil suit.

23 United States v. Etoty, 679 F.3d 292, 296 (2012) (quoting United
24 States v. Grimes, 173 F.3d 634, 637 (7th Cir.1999)).

25 The number of J-1 visa-related documents found at the Weddington
26 residence shows that defendant and his co-conspirators deliberately
27 targeted foreign visitors who, once they left the United States,
28 would have little to no capacity to identify and protect their name

1 from use in a U.S. government supported disaster relief loan program.
2 In United States v. Cuellar, 165 F.3d 918 (9th Cir. 1998)
3 (unpublished), the Court affirmed the district court's application of
4 a two-level "vulnerable victim" enhancement where defendant used the
5 identity of a deceased individual to fraudulently obtain a credit
6 card in the deceased's name. "In determining whether a victim is
7 'particularly susceptible' within the meaning of section 3A1.1(b), a
8 sentencing court must consider the characteristics of the defendant's
9 chosen victim, the victim's reaction to the criminal conduct, the
10 circumstances surrounding the criminal act, and whether the defendant
11 could reasonably have anticipated the victim's reaction." Id. at 918
12 (citing United States v. Peters, 962 F.2d 1410, 1417 (9th Cir.1992)).

13 In the instant case, the foreign exchange students targeted by
14 defendant and his coconspirators were particularly susceptible to the
15 fraudulent use of their identities. They had prior legal status in
16 the United States, with valid identification documents and activity.
17 However, these victims had departed years prior to the onset of
18 COVID-19 to return to their countries of origin, with that time and
19 distance making it particularly difficult to detect and address the
20 theft and use of their names in a crisis-induced federal loan
21 program. Given the length of time since the victims were in the U.S.
22 and their immigrant status, defendant could have anticipated their
23 reasonably reaction to the use of their identities - or, in this
24 case, the lack thereof. The two-level enhancement should be applied.

25 **Corrections and Clarifications**

26 The government provides the following corrections to the PSR:

- 27 • In paragraph 6, the description of Count 24 should be
28 amended to state that, "A. Ayvazyan and co-defendant Tamara

Dadyan (T. Dadyan), each aiding and abetting the other, knowingly transferred, possessed, and used, and willfully caused to be transferred, possessed, and used, without lawful authority means of identification . . .” (underline added to emphasize revision).

- On page 2 under “release status” and in paragraph 9 under “Adjustment under Pretrial Supervision,” the description of defendant’s terms of pretrial release should be revised to reflect that defendant’s \$100,000 bond, which was initially supported by signature bonds of \$50,000 each provided by Lilit Malyan and Greta Akopyan, was replaced by the deeding of property located on Lemac Street in Van Nuys, California by Abraham Tatoyan. (See ECF 5, 112.)
- Paragraph 2 should be amended to reflect that Artur Ayvazyan was found guilty by jury trial on June 25, 2021, not June 28, 2021. Similarly, paragraphs 11 and 18 under the section titled “Status of Co-Defendants” should be corrected to state that co-defendants Richard Ayvazyan and Vahe Dadyan were found guilty by jury trial on June 25, 2021, not June 28, 2021.
- Paragraph 17 under the section titled “Status of Co-Defendants” should be revised to reflect that codefendant Edvard Paronyan was sentenced to 30 months in prison on September 27, 2021.
- In footnote 2 appended to paragraph 29, the last sentence should be revised to read, “On May 12, 2020, T. Dadyan texted R. Ayvazyan that they ‘need to do the max’ now as

1 the market was going to crash" (underline added to
2 emphasize revision, removing the word "stock").

- 3 • In the discussion of the offense conduct, the description
4 of the defendant's and his co-conspirator's submission of
5 applications should generally be amended to state that
6 defendant his co-conspirators submitted and caused to be
7 submitted the referenced applications (underline added to
8 emphasize revision).
- 9 • In paragraph 94, the paragraph should be amended to state
10 "As established at trial and through additional
11 documentation, A. Ayvazyan and the codefendants submitted
12 loans in the amount of \$21,911,962.20 and obtained
13 18,016,141.26." (underline added to emphasize revision)

14 Dated: October 7, 2021

Respectfully submitted,

15 TRACY L. WILKISON
16 Acting United States Attorney

17 SCOTT M. GARRINGER
18 Assistant United States Attorney
 Chief, Criminal Division

19 /s/

20 CATHERINE AHN
21 SCOTT PAETTY
22 BRIAN FAERSTEIN
 Assistant United States Attorneys
23 CHRISTOPHER FENTON
 Department of Justice Trial Attorney

24 Attorneys for Plaintiff
25 UNITED STATES OF AMERICA
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27
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